

Honorable Judge Benjamin Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER,

Plaintiff,

v.

JAMES M. PETERS, et al.,

Defendants.

No. C11-5424BHS

DECLARATION OF KATHLEEN  
T. ZELLNER IN SUPPORT OF  
PLAINTIFF'S RESPONSE TO  
DEFENDANT PETERS'  
SUPPLEMENTAL  
MEMORANDUM

NOTE ON MOTION CALENDAR:

Monday, July 8, 2013

Pursuant to 28 U.S.C. § 1746, Kathleen T. Zellner declares under penalty of perjury under the laws of the State of Washington and the United States of America that the following is true and accurate:

1. I am the attorney of record for Plaintiff Clyde Ray Spencer in the above entitled action. I am competent to testify in all respects, and make this declaration from personal knowledge.

2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the deposition of James Peters. Specifically, the following pages from the transcript of the deposition are attached: 124, 167-68, 242-43.

DECLARATION OF KATHLEEN T. ZELLNER IN SUPPORT  
OF PLAINTIFF'S RESPONSE TO DEFENDANT PETERS'  
SUPPLEMENTAL MEMORANDUM  
(C11-5424BHS) — 1

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1           3. Attached hereto as **Exhibit B** is a true and correct copy of the letter written by James  
2 Peters to the Independent Sentencing Review Board, dated June 5, 1998, Bates Nos. Spencer-  
3 03946-03947. Exhibit B was produced by Defendant James Peters in response to Plaintiff's  
4 requests to produce.

5           4. Attached hereto as **Exhibit C** is a true and correct copy of U.S. Court of Appeals for  
6 the Ninth Circuit's memorandum, filed November 30, 1995, affirming in part and reversing in  
7 part the lower court's grant of summary judgment to the state and granting Plaintiff an  
8 evidentiary hearing in *Spencer v. Klauser*, Case No. 95-35113 (prior habeas proceedings).  
9

10          5. Attached hereto as **Exhibit D** is a true, correct, and signed copy of Petitioner's First  
11 Interrogatories and Requests for Production of Documents and Respondent's Answers to  
12 Petitioner's First Interrogatories and Requests for Production of Documents in *Spencer v.*  
13 *Klauser*, Case No. C94-5223RJB (prior habeas proceedings), Bates Nos. Spencer001695-  
14 001717.

15          6. Attached hereto as **Exhibit E** is a true, correct, and signed copy of the Notice of  
16 Deposition to James Peters, dated July 11, 1996, in *Spencer v. Klauser*, Case No. C94-523RJB  
17 (prior habeas proceedings).  
18

19          7. Attached hereto as **Exhibit F** is a true and correct copy of excerpts from the  
20 deposition of James Peters, taken July 30, 1996, in the matter of *Clyde Raymond Spencer v.*  
21 *Joseph Klauser, et al.*, Case No. C94-5238RJB (prior habeas proceedings). Specifically, the  
22 following pages from the transcript of the deposition are attached: 28.  
23  
24  
25  
26  
27

SIGNED this 1st day of July, 2013 in Downers Grove, Illinois.

Respectfully submitted,

/s/ Kathleen T. Zellner

Kathleen T. Zellner & Associates, P.C.

Admitted *pro hac vice*

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Attorney for Plaintiffs

DECLARATION OF SERVICE

I hereby certify that on July 1, 2013, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record as follows:

Patricia Campbell Fetterly Daniel J. Judge Robert M. McKenna Assistant Attorney General Torts Division PO Box 40126 Olympia, WA 98504-0116 Email: patriciaf1@atg.wa.gov Attorneys for Defendant James M. Peters	
Guy Bogdanoich Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. P.O. Box 11880 Olympia, WA 98508-1880 Email: gbogdanovich@lldkb.com Attorney for Defendant Sharon Krause	Jeffrey A. O. Freimund Freimund Jackson Tardif & Benedict Garratt, PLLC 711 Capitol Way South, Suite 602 Olympia, WA 98502 Email: jeffF@fjtlaw.com Attorneys for Defendant Michael Davidson

/s/ Kathleen T. Zellner  
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 Attorney for Plaintiffs

DECLARATION OF KATHLEEN T. ZELLNER IN SUPPORT  
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 SUPPLEMENTAL MEMORANDUM  
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